



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**JUN 8 2011**

Colonel Steven Roemhildt  
District Engineer  
U.S. Army Corps of Engineers  
Mobile District, Regulatory Division  
Attn: Mike Moxey  
P.O. Box 2288  
Mobile, Alabama 36628

Subject: Notice of Intent to Proceed: SAM-2006-00206-MBM, Harbour Lights, Foley Land Cut

Dear Colonel Roemhildt:

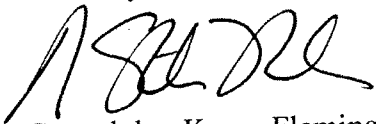
The U. S Environmental Protection Agency, Region 4, has received your notice regarding your intent to proceed with issuance of a Section 404 permit for SAM-2006-00206-MBM, the Harbour Lights development. The project involves construction of a mixed-use residential and commercial development with a 40-slip marina complex along the Foley Land Cut portion of the Gulf Intracoastal Waterway, and is one of several development projects included in the overarching Environmental Impact Statement (EIS) that was finalized in December 2009. This letter is to notify you that the EPA will not recommend this project for a higher level of review under Part IV, Elevation of Individual Permits, in the 1992 Memorandum of Agreement between the EPA and the Department of the Army.

In our letters of February 10, and March 10, 2010, the EPA recommended denial of the permit applications for the projects included in the EIS because we believed that the proposed activities would result in substantial and unacceptable adverse environmental impacts to Aquatic Resources of National Importance. Additionally, the proposed project failed to comply with the Clean Water Act Section 404(b)(1) Guidelines. Subsequent information submitted by the applicant and the U.S. Army Corps of Engineers has addressed our concerns. The marina size has been reduced. Target dredge depths and basin configurations have been changed to address concerns about basin flushing and water quality. As conditioned, the Alabama Department of Environmental Management's 401 Water Quality Certification and Coastal Consistency Certification issued on March 2, 2011, also addresses our concerns regarding potential impacts to water quality.

Thank you for the opportunity to comment on this request for authorization and for taking our comments into consideration during the review process. As noted, per section 3(d)(1) of our 1992 Memorandum of Understanding, we are not elevating this project for a higher level of review, and we request that you

provide a copy of the issued permit for our records. If you have any questions, please contact either Rosemary Hall at 404.562.9846 or Hall.Rosemary@epa.gov, or Jennifer Derby at 404.562.9401 or Derby.Jennifer@epa.gov.

Sincerely,



Gwendolyn Keyes Fleming  
Regional Administrator

cc: Mr. Craig Litteken, USACE  
Mr. Scott Brown, ADEM  
Ms. Patric Harper, FWS  
Mr. Matthew Marshall, ADCNR  
Mr. Mark Thompson, NMFS  
Ms. Ntale Kajumba, EPA